

TRANSTRENDS

THE TRANSLAW GROUP, INC.

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IN THIS ISSUE

- 1 GO TO JAIL
- 2 WHERE'S THE BEEF
- 3 DRUG AND ALCOHOL CLEARINGHOUSE
- 4 DRIVERS PUT OUT OF SERVICE
- 5 MORE GO TO JAIL

IF YOU WISH TO END YOUR SUBSCRIPTION TO TRANSTRENDS, SIMPLY SEND AN EMAIL REQUESTING A CANCELLATION TO JBURNS@TRANSREGS.COM

PRISON FOR TAMPERING WITH RECORDS



The manager of a transportation company has been sentenced to 14 months in prison for his role in a scheme to falsify and destroy driver records required to be maintained for inspection by federal motor carrier safety officials.

The defendant, Dariusz Szteborowski, 50 of Rocky Hill, Conn., also faces a three-year supervised release after custody, and is ordered to pay a \$20,000 fine,

according to a press release from the Federal Motor Carrier Safety Administration.

Szteborowski was manager of Wisla Express, a New Britain, CT-based airport shuttle service. According to an indictment filed in U.S. District Court of Connecticut, beginning in September 2008 and continuing until September 2010, Szteborowski and Wisla altered, destroyed or otherwise falsified driver logs, concealing that many drivers violated hours of service and submitting the false logs to federal regulators.

According to court documents and statements made in court, Szteborowski, as manager of Wisla Express, was responsible for the day-to-day operations of the company, including scheduling driving assignments and maintaining the company's driving records.

Between September 2008 and September 2010, Szteborowski scheduled and assigned drivers to trips knowing that the drivers would be exceeding the regulated limits of on-duty driving time, and also instructed drivers and others to falsify driving logs by recording that the drivers were off-duty during times when they were, in fact, driving, according to the FMCSA.

Court documents indicate that in order to pay drivers for time actually spent working for Wisla Express, Szteborowski instructed drivers to submit separate pay sheets and notes that accurately detailed their hours. He then destroyed the pay sheets and other documentation that accurately recorded the drivers' hours. This is a long time practiced scam that never works. You cannot recreate history. Better to take your "lumps" rather than go to prison.

In response to an FMCSA investigation of Wisla Express that was initiated in August 2010, Szteborowski produced the falsified driver logs and withheld other records that would conflict with the logs.

As part of his sentencing, Szteborowski and his wife cannot be involved, directly or indirectly, in Wisla Express or any other business under the jurisdiction of the U.S. Department of Transportation during his three-year term of supervised release.

AS CLARA PELLER SAID "WHERE'S THE BEEF"



Two brothers from California have been sentenced for their roles in a failed beef heist from a Kansas slaughterhouse, according to documents filed in federal court.

Oganes Nagapetian, 53, and his brother, Tigran Nagapetian, 50, both of North Hollywood, Calif., were charged in April with conspiracy in a November 2011 plot to steal a load of beef worth about \$82,700 from a Tyson Fresh Meats Inc. plant in Holcomb, KS.

The brothers each reached plea agreements on Nov. 5 with the U.S. District Attorney in Kansas. The sentencing was ordered by U.S. District Judge Monti Belot on Jan. 27.

In exchange for pleading guilty to one count of conspiracy to commit wire fraud, Oganes Nagapetian was sentenced to federal prison for one year and one day, with two years' supervised release to follow. Tigran Nagapetian received one year of probation for pleading guilty to the lesser offense of aiding and abetting by lying to authorities about his brother's actions.

According to the indictment, the brothers attempted to pass themselves off as a Pennsylvania trucking company, and faxed fraudulent documents to an Ohio freight broker so they would be hired to pick up the beef. The meat was supposed to be shipped to a wholesaler in Vernon, Calif.

Both men were apprehended on Nov. 4, 2011, when they attempted to pick up the trailer at the packing plant. The plea agreement states that the broker “became suspicious of the transaction” and notified the FBI.

“When stopped by the Kansas Highway Patrol, Oganer and Tigran told the troopers they were going to Oklahoma to buy a semi-trailer to explain why they were in a ‘bobtail’ only, and didn’t disclose that Oganer had dropped off a trailer in Holcomb to be loaded with packaged meat,” the plea agreement stated.

FMCSA LAYS OUT PROPOSED DRUG AND ALCOHOL CLEARINGHOUSE



The feds are making a big move toward stepping up the pressure on individuals who drive commercial vehicles while under the influence of illegal drugs or alcohol.

The Federal Motor Carrier Safety Administration unveiled its proposed plan for a drug and alcohol clearinghouse that would store positive drug and alcohol test results; adulterated, substituted drug test results; test refusals; and successful completions of the return to duty process following a positive test result.

The reporting requirements fall on both prospective and current employers, medical review officers, consortiums, third-party administrators and substance abuse professionals. In the case of owner-operators, the agency is proposing the mandated use of a consortium or third-party administrator to complete the reporting requirements to the clearinghouse.

Positive test results may be kept only three or five years – a time frame the agency is seeking comment specifically on – for individuals who have successfully completed the return to duty process and had subsequent negative follow-up test results.

Conversely, the agency is essentially proposing to keep the positive test results in the database indefinitely on individuals who do not complete a return-to-duty process after the positive drug or alcohol test. Not only will drivers have access to the clearinghouse to view their own profiles, but the agency is also proposing to notify drivers when changes are made to their profiles or when their records are accessed. The notification would be either by mail or by email, depending on the driver’s preference.

In the proposal, motor carriers would be required to check a driver's records in the clearinghouse before hiring the driver. The driver would have to give written consent for this search.

Additionally, FMCSA is proposing to require motor carriers to check the database annually on existing employees. The agency is proposing that this be a "limited" search, which would only flag employee records that have been changed. That would also require written consent from the drivers, but the agency would allow a blanket consent to be signed at the time of employment.

The employer would then have to get written permission to do a full review of any employee records that were flagged as having been changed in the past year. Drivers who do not provide consent to employers for searches of the clearinghouse will not be allowed to conduct safety-sensitive functions. Basically, they won't be allowed to drive a truck.

The proposal also includes provisions for reporting citations for driving under the influence to the clearinghouse. However, if the citation does not result in a conviction, it would have to be removed from the records. Mistakes do happen, and FMCSA acknowledges this with a proposed challenge process for erroneous data. This would be for clerical errors and inaccurate information. It's not an additional step in the appeals process on positive results. Those would still remain with the MRO.

The agency is proposing that clerical errors would have to be addressed within 90 days from the date of the challenge petition, and "critical information" corrections would have to be addressed within 30 days. The proposal is silent on the requirements of foreign-domiciled motor carriers that operate in the U.S. and does not address whether a third-party vendor would actually be responsible for operating the drug and alcohol clearinghouse.

TWO DRIVERS DECLARED AS SAFETY HAZARDS, IT CAN HAPPEN



Two drivers and a trucking company have been ordered out of service following unrelated safety violations. The orders, which were issued Feb. 7, prohibit Florida long-haul driver Devon House and Tennessee truck driver Ricky Hatfield, and his company, Hatfield Trucking, from operating commercial vehicles.

Ricky L. Hatfield, and his Tazewell, Tenn.-based company, Hatfield Trucking, were ordered out of service on Jan. 22. Hatfield was operating a tractor-trailer on Interstate 81 in Franklin County, Penn., on Nov. 19, 2013, when he was involved in a multiple-vehicle crash that also struck two pedestrians. He fled the scene and was apprehended by law enforcement shortly after the crash.

You guessed it, Hatfield was charged with driving while intoxicated, reckless driving, aggravated assault by a vehicle, and failure to stop at an accident involving death or personal injury, as well as

other charges, according to FMCSA. He was previously convicted of driving under the influence in 2009.



Mr. House's Truck

The imminent hazard out-of-service order applies to Hatfield individually and to all vehicles owned or operated by Hatfield Trucking. Hatfield spent Thanksgiving, Christmas, New Years, Marin Luther King Day, and Presidents day in the custody of Franklin County law enforcement. In fact he cannot meet his \$150,000.00 bail. He is represented by a public defender. Sounds like Ricky will spend many holidays behind bars.

Florida-licensed truck driver House was declared an imminent hazard after having three separate citations in the past six months for alcohol-related violations while operating a commercial vehicle, according

to FMCSA. He is just 28 years old and his future driving history has been set! Those actions will most likely result in a lifetime ban from driving a commercial motor vehicle.

House, from Casselberry, Fla., was involved in an October 2013 crash that closed all southbound lanes of I-65 in Lake County, Indiana. According to media reports, House was charged with operating while intoxicated after registering a blood alcohol content of .27. A .08 level is generally the legal limit which would indicate that Mr. House had no idea as to what he was doing. Not the excuse you would want to use in court!

This is a good time to remind drivers that their personal driving histories can result in suspension from driving commercial vehicles and your driving record will follow you from job to job.

MAN CONVICTED FOR CONSPIRACY TO VIOLATE FMCSA OOS ORDER



A Georgia man was recently convicted for his role in resurrecting a motor carrier that had been ordered to stop operating. This practice is illegal as you will find out as you read on...

Devasko Lewis was sentenced to six months incarceration, followed by twelve months supervised release, and ordered to pay a fine of \$3,000 for operating a commercial motor vehicle in violation of an Imminent Hazard - Out of Service Order issued by the Federal Motor Carrier Safety Administration.

In October 2008, a truck operated by Georgia-based Lewis Trucking Company was involved in a fatal wreck in Alabama on U.S. 82. The truck, which was hauling wood, reportedly crashed head-on with a passenger van hauling state prisoners from one correctional facility to another. Six prisoners and a correctional employee died in the wreck.

Lewis Trucking Co. was ordered by the Federal Motor Carrier Safety Administration to cease all operations after a compliance review uncovered "serious violations" following the crash, a news release states.

Devasko Lewis, who operated the shuttered carrier, worked with Corey Daniels to establish Eagle Transport and Eagle Trans while using Daniels' identity in documents submitted to FMCSA. According to a news release from the U.S. DOT Office of Inspector General, Daniels pleaded guilty Jan. 31 in U.S. District Court in Macon Georgia to conspiracy to violate an Imminent Hazard Out-of-Service Order issued by FMCSA.

Please keep in mind that it is perfectly permissible to own more than one regulated entity Before the Federal Motor Carrier Safety Administration. There are questions on the application form that must be answered fully, and, obviously, Mr. Lewis did not respond to those questions properly. Full disclosure is required on all federal motor carrier safety administration applications and following those rules will keep you out of trouble.

AND, FINALLY, HOW DID THIS HAPPEN?

The horse was cited for excessive sway back and what appears to be a bio-hazard spill!



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